IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

Bail Appl..No. 7227 of 2007()

CRIME NO. 381/07 OF THENHIPALAM POLICE STATION

PETITIONER/ACCUSED NO.1

FAZALUL RAHMAN, S/O.VEERAN HAJI,
PAZHERI HOUSE, PERUVALLUR, THENHIPALAM,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE,
THENHIPALAM POLICE STATION-THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7227 of 2007

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Dated this the 30th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Section 307 I.P.C. The crux of the allegations against the petitioner is that on account of animosity he attempted to cause the death of the defacto complainant by knocking him down by a car which the petitioner was driving at the relevant time. The defacto complainant suffered serious injuries, including a fracture. It is alleged to the doctor that he has suffered the injuries when he was knocked down by a car. In the F.I. statement the allegation is that the petitioner was driving the car and the car had knocked him down. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner is not involved in any such accident at all. He denies the allegation that any injury has been suffered by the victim when he was knocked down by a car

driven by the petitioner. Totally false and vexatious allegations are being raised against the petitioner. It is further submitted that the petitioner has some mental ailment. On that ground also he may be granted anticipatory bail, prays the learned counsel.

3. The learned Prosecutor opposes the application. He submits that the materials collected so far clearly point to the complicity of the petitioner. There are no circumstances justifying the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner, submits the learned Prosecutor.

4. I find merit in the opposition by the learned Prosecutor. I am unable to find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the

learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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